

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF IOWA**

In re:  MERCY HOSPITAL, IOWA CITY, IOWA, <i>et al.</i> ,  Debtors. <sup>1</sup>	Chapter 11  Case No. 23-00623  Jointly Administered
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**OBJECTION OF KRONOS INCORPORATED AND UKG INC.  
TO THE DEBTORS' NOTICE OF ASSUMPTION AND ASSIGNMENT  
OF EXECUTORY CONTRACTS FOR UNEXPIRED LEASES  
AND CURE COSTS**

COMES NOW Kronos Incorporated and UKG Inc. (collectively, the “Kronos Parties”) and for their Objection to the *Notice of Assumption and Assignment of Executory Contracts for Unexpired Leases and Cure Costs* [Docket No. 265] (the “Cure Notice”) filed by the Debtors on September 20, 2023, respectfully state as follows:

1. Kronos Incorporated is a payroll processing company that has been providing payroll processing services to the Debtors on a pre-petition and post-petition basis, pursuant to that certain agreement styled, *Workforce Central—Software As A Service Terms And Conditions*, made by and between Kronos Incorporated and Debtor Mercy Hospital, Iowa City on March 27, 2015 (the "Service Agreement"). UKG Inc. is an affiliated company with Kronos Incorporated that has been providing payroll processing services to the Debtors pursuant to various Professional Service Requests issued by the Debtors.

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<sup>1</sup> The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number or business identification number, as applicable, are: Mercy Hospital, Iowa City, Iowa (0391), Mercy Services Iowa City, Inc. (1044), and Mercy Iowa City ACO, LLC (9472). The location of Mercy’s corporate headquarters and the Debtors’ service address is 500 E. Market Street, Iowa City, IA 52245.

2. Although the Debtors' Cure Notice lists the Service Agreement with Kronos Incorporated, and also lists a separate Professional Services Request with UKG Inc., said Notice does not list all of the outstanding Professional Service Requests with UKG Inc., and does not list any cure amounts as due and owing to Kronos Incorporated or to UKG Inc. It is unclear to the Kronos Parties why the Debtors have listed only one of the Professional Service Requests on the list of Potential Assumed Contracts.<sup>2</sup> The Service Agreement and all Professional Service Requests issued thereunder are executory contracts between the Kronos Parties and the Debtors.

3. As noted above, the Debtors' Cure Notice erroneously does not list any cure amounts with respect to the Service Agreement, and the related Professional Service Requests thereto. Although the Debtors have made some payments to the Kronos Parties, as of the date of the filing of this Objection, there remains due and owing from the Debtors: a) to Kronos Incorporated the sum of \$112,727.22 for pre-petition services, and the sum of \$10,944.01 for post-petition services pursuant to the Service Agreement; and b) to UKG Inc. the sum of \$13,500 for pre-petition services pursuant to various Professional Service Requests. These sums are fluctuating amounts, given that the Kronos Parties are continuing to provide services to the Debtors and continue to bill for such services. Accordingly, the Kronos Parties reserve the right to supplement this Objection in the likely event that the current sums required to cure the amounts due under the Service Agreement and related Professional Services Requests change.

4. Given that the Cure Notice does not does not list any cure amounts whatsoever for the Service Agreement or the Professional Service Requests, no adequate assurance of the

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Debtors' Notice of Assumption and Assignment.

Stalking Horse Bidder's future ability to perform any of the contracts between the Kronos Parties and the Debtors has been provided to the Kronos Parties. Furthermore, it is unclear whether the Service Agreement and related Professional Service Agreements will be assumed and assigned to the Stalking Horse Bidder, and as to whether the Debtors and the Stalking Horse bidder intend to comply with the terms of the Service Agreement. Accordingly, the Kronos Parties reserve the right to supplement this Objection and to object at any sale hearing relative to the Debtors' proposed Sale of assets that impacts the Service Agreement and Professional Service Agreements.

5. The objection deadline for the proposed cure amounts in the Cure Notice was October 2, 2023, but on September 28, 2023, Debtors' counsel agreed to extend the deadline for Kronos Incorporated and UKG Inc. up to and through Friday, November 3, 2023. Accordingly, this Objection is timely filed.

WHEREFORE the Kronos Parties respectfully request that the Court: a) require the Debtors to correctly list on the Cure Notice all of the Potential Assumed Contracts with the Kronos Parties, including the Service Agreement and all related Professional Service Agreements; b) require the Debtors to provide on the Cure Notice the correct Cure Costs relative to the Service Agreement and the Professional Service Agreements; c) require the Debtors and the Stalking Horse Bidder to provide the Kronos Parties with adequate assurance of the Stalking Horse Bidder's intentions and future ability to perform the Service Agreement and related Professional Service Agreements; d) condition any assumption and assignment of the Service Agreement and Professional Service Agreements on the payment to the Kronos Parties of the full amount of the sums due and owing to the Kronos Parties at the time of said assumption and assignment; e) require the Debtors to assume and assign or reject the Service

Agreement and related Professional Service Agreements as of the Closing Date of any Sale of the Debtors assets; and f) grant the Kronos Parties such other and further relief as the Court deems equitable and just.

Respectfully submitted this 3rd day of November, 2023.

/s/ Bradley R. Kruse

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ATTORNEYS FOR KRONOS INCORPORATED  
AND UKG INC.

#### **CERTIFICATE OF SERVICE**

This document was served electronically on parties who receive electronic notice through CM/ECF as listed on CM/ECF's notice of electronic filing dated this 3rd day of November, 2023.

/s/ Linda Enghausen

Linda Enghausen